COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

Middlesex, ss.

No. 14-P-1295

COMMONWEALTH

v.

MICHAEL BOYD

ON APPEAL FROM A JUDGMENT OF THE MIDDLESEX SUPERIOR COURT

BRIEF AND RECORD APPENDIX FOR THE DEFENDANT-APPELLANT

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STATEMENT OF ISSUE

Whether the Commonwealth's nolle prosequi was improperly used to imprison Boyd contrary to the the Legislature's intended penalty structure in the firearms possession statute.

CITATION FORMAT AND RECORD NOTES

This brief references the (1) jury trial transcript (Tr-Day-Page); (2) jury waived transcript (Waived-Day-Page); (3) resentencing transcript (Resent-Page); (4) trial court docket entry (R.); and (5) Record Appendix (RA-Page).

This appeal challenges the Middlesex Court's rulings at Mr. Boyd's sentencing following remand from the Appeals Court. Trial transcripts were filed in the Appeals Court as part of the record for his initial direct appeal. (Appeals Docket, 10-P-2111). His single volume resentencing transcript was filed with the docketing of the instant appeal. (Appeals Docket, 14-P-1295).

STATEMENT OF THE CASE

Ten indictments returned from the Middlesex Grand Jury on October 28, 2008, charging Michael Boyd with Armed Assault to Murder, Firearms Possession, Child Endangerment, and related offenses. (Middlesex Docket, 4, 10; RA-4, 10). In a bifurcated trial, the jury returned guilty verdicts on Indictments 2, 3, 5, 6, 9, and 10 (firearm and ammunition possession, child endangerment, firearm discharge). (Tr-VIII-31-33) (Trial-IX-40). The panel acquitted on Indictments 4, 7, and 8 (assault and battery). (Tr-VIII-31-33). For Indictment 1 (armed assault to murder), the court declared a mistrial on November 30, 2009; the Commonwealth's nolle prosequi followed on December 11. (Trial Docket 7-8, RA-7-8).

Boyd waived jury for the second phase of trial.

For the firearms and ammunition possession counts in

Indictments 2 and 3, the court found him guilty as a

subsequent offender and as an armed career criminal.

(Middlesex Docket 7, RA-7) (Waived-II-5). On December

3, 2009, the Middlesex Court imposed a state prison

sentence of 15-17 years for Indictments 2 and 3

(firearm and ammunition possession). Boyd received

concurrent 10 year probation terms for Indictments 5, 6, 9, and 10 (child endangerment, firearm possession and discharge). (Middlesex Docket 7-8, RA-7-8).

On appeal, Boyd challenged the applicability of his armed career criminal (ACC) sentence enhancement. This court vacated the ACC disposition and remanded for resentencing. *Commonwealth v. Boyd*, 85

Mass.App.Ct. 1106 (2014) (Rule 1:28 Memorandum Decision, 10-P-2111).

Resentencing proceeded on July 10, 2014.

(Resent-1). This time, over defense objection, the Commonwealth filed a nolle prosequi for the subsequent offender allegation on the firearms possession conviction from Indictment Two. (Resent-6) (Middlesex Docket 10, RA-10). Separately and by agreement as duplicitous, the court vacated the ammunition possession conviction from Indictment Three.

(Resent-6-7) (Middlesex Docket 9-10, RA-9-10). After argument, Judge Hamlin sentenced Boyd to 12-15 years on Indictment Two, firearms possession. (Resent-10). Boyd's appeal docketed in the Appeals Court on August 18, 2014. (Appeals Docket, 14-P-1295).

STATEMENT OF FACTS

The Commonwealth offered thirteen witnesses in the jury phase of this bifurcated trial. The defense offered Tanya Hollingsworth and two members of her family. In the jury-waived phase on sentence enhancement, the Commonwealth relied upon two police officers and certified records.

A. Tanya's family responds to their daughter's plight.

Tanya Hollingsworth resided with Michael Boyd at 35 Coburn Street. They were engaged and had an argument over their relationship. In her testimony for the defense, she indicates that while traveling in the car, she hit him three or four times. He retaliated by shoving her once. (Tr-VI-9-15).

She telephoned her parents, Fred and Sonia
Hollingsworth, and was upset. (Tr-II-4-7) (Tr-VI-60).
Fred picked up Tanya and brought her to his home.
(Tr-VI-50, 60-61). Upon his return, two Framingham cruisers were at his house. (Tr-II-13). The family later accompanied police to 35 Coburn Street to get the kids. (Tr-II-15) (Tr-VI-61). Michael refused to leave the house and began to cry. (Tr-II-19). Sonia

and another daughter, Ashley, saw an officer approach the house and kick in a window. (Tr-VI-52, 62).

B. The Framingham police intervene.

Framingham Officer Paul Patriarca responded to a dispatch and met with Tanya Hollingsworth at 212B Fountain Street. She was upset and had a swollen face. The police relayed their decision to make an arrest and retrieve the children. Along with members of the Hollingsworth family, they traveled to 35 Coburn Street. (Tr-I-33-35).

Framingham Officer John Moore was accompanied by a specialist in psychiatric services. (Tr-II-57).

Moore spoke with the Hollingsworth family. (Tr-II-60). Upon arrival at 35 Coburn, he kicked open the front common door. (Tr-II-62-65). A male inside announced that he had a gun. (Tr-II-65-66). Moore moved to the porch and kicked in the window. (Tr-II-67). A flash and a bang emitted from the house. (Tr-II-68). Moore saw an adult silhouette with a metal cylinder, then fired two rounds into the house. (Tr-II-68). Someone later called out that the subject was down. (Tr-II-72).

Framingham Officer Michael McCann and Detective Leonard Pini pushed in an air conditioner to see into the house. (Tr-II-118) (Tr-III-11). A man with a shotgun turned toward them. (Tr-II-119-123) (Tr-III-14-16). Pini warned him to drop it, then opened fire. (Tr-III-15-16).

Framingham Officer Christopher Langemeyer saw a bleeding Boyd exit the first floor apartment door. (Tr-III-66-67). Langemeyer carried the children from the kitchen and out of the house. (Tr-III-68-70). Officer James Green administered aid to a heavily bleeding Boyd. (Tr-III-90-91).

Moore and Pini saw a shotgun and blood on the kitchen floor. (Tr-II-75) (Tr-III-22). Massachusetts State Trooper Allen Hunte recovered a shotgun from the kitchen. (Tr-III-155).

C. Boyd has an earlier firearms possession offense.

The second phase of the bifurcated trial proceeded on December 2, 2009, and addressed subsequent offender allegations. In its case, the Commonwealth relied upon earlier convictions from May 14, 2002, for unlawful possession of a firearm and ammunition, respectively, in Suffolk 01-10682.

(Indictment Two 3, RA-15) (Indictment Three 3, RA-21) (Exhibit 83, Suffolk 01-10682 Docket). For proof, the Commonwealth offered the certified docket from Suffolk 01-10682 as Exhibit 83. (Waived-I-47).

SUMMARY OF ARGUMENT

The Commonwealth may enter its nolle prosequi of pending charges at any time prior to sentence. Here, following bifurcated trial, the court convicted Boyd for shotgun possession as a second offender. Prior to his second sentencing, the Commonwealth offered its nolle prosequi on the second offender allegations. The court sentenced Boyd to 12-15 years.

Conviction for sawed-off shotgun possession

triggers a tiered penalty structure. First conviction

carries incarceration of 18 months to life, while

second conviction carries five to seven years. Boyd

asks this court to consider whether the Commonwealth

(1) was time barred from offering its nolle prosequi;

or (2) improperly used its nolle prosequi to hijack

the Legislature's intended penalty structure for

offenders similar to Boyd.

The firearms possession statute details a unified offense with a tiered penalty structure. To permit its divisibility by nolle prosequi allows for sentence imposition contrary to the Legislature's intent. In this case, proper nolle prosequi must be all or nothing; either the Commonwealth files the nolle

prosequi for the entire shotgun possession charge, or it proceeds with its repeat offender conviction and avails itself of the penalty structure mandated by statute. As applied in the trial court against Boyd, the Commonwealth's use of selective nolle prosequi permits punishment inconsistent with the intent of the Legislature.

ARGUMENT

The Commonwealth's nolle prosequi was improperly used to imprison Boyd contrary to the the Legislature's intended penalty structure in the firearms possession statute.

Following appellate remand, the Middlesex Court proceeded with sentencing of Mr. Boyd for shotgun possession as a second offender. At sentencing, the Commonwealth offered its nolle prosequi on second offender charges, which carry a range of 5-7 years, and availed itself to argue under the statute's unlimited penalty clause for first offenders. Boyd submits that this practice misuses the doctrine of nolle prosequi. Here, for charges of shotgun possession, the only proper use of nolle prosequi relinquishes all claims for violation of the charged statute.

A. Standard of Review.

The appellate court conducts independent review of ultimate findings and conclusions of law, while findings of fact receive review for clear error.

Commonwealth v. Difalco, 73 Mass.App.Ct. 401, 402

(2008). At resentencing, Boyd unsuccessfully argued against the Commonwealth's nolle prosequi for the subsequent offender allegation on his firearms

possession conviction. (Resent-6) (Middlesex Docket 9-10, RA-9-10). Boyd submits that applicability of nolle prosequi doctrine is a question of law which calls for independent review on appeal.

B. Sentence enhancements are not separate crimes.

Conviction for sawed-off shotgun possession triggers a tiered penalty structure. First conviction subjects one to incarceration for 18 months to life. For subsequent offenders, the Legislature mandates penalty ranges of five to seven years (second offenders), seven to ten years (third offenders), and ten to fifteen years (fourth offenders). G.L. c. 269, \$ 10(a), (c) and (d).

On its own initiative, the Commonwealth may abandon its pursuit of the accused. See

Mass.R.Crim.P. 16. (prosecuting attorney may enter nolle prosequi of pending charges at any time prior to pronouncement of sentence) (after jeopardy attaches, nolle prosequi entered without consent of defendant shall have effect of an acquittal for charges contained in nolle prosequi). The government's use of nolle prosequi results from a strategic decision to cease pursuing charges; its entry is an affirmative

exercise of this device to discontinue prosecution.

Commonwealth v. Denehy, 466 Mass. 723, 734 (2014).

Statutory provisions which enhance sentences, based upon prior convictions, do not create independent crimes; those provisions affect penalty imposed for underlying crime. Commonwealth v Johnson, 447 Mass. 1018, 1019-1020 (2006). Compare Bynum v. Commonwealth, 429 Mass. 705, 707-709 (1999) (where Legislature enacts sentencing enhancements statute that provides for longer sentence due to prior conviction of certain offense, separate crime not stated) (prior offense not element of crime charged, but affects punishment imposed if defendant convicted on new offense and prior offense proven) (Legislature intended for imposition of single sentence).

The SJC recently elaborated on proper use of nolle prosequi in subsequent offender cases. In its explanation of Bynum, the court confirms that the Legislature did not intend for two sentences to be imposed, one for the underlying offense and a second for having committed the offense after prior conviction on the same offense. The prior offense is not an element of the new crime charged, but rather

informs the court on punishment imposed when conviction on new offense returns and prior offense is proven. Commonwealth v. Richardson, 469 Mass. 248, 249 (2014) (analysis of subsequent offender sentencing structure where more than one penalty enhancement available) (court may only apply one sentence enhancement).

The Appeals Court adopts a more broad view of nolle prosequi doctrine in the context of subsequent offender cases. This power to issue nolle prosequi is absolute prior to trial, affords the defendant an acquittal when used during trial without defendant's consent, and revives after verdict until imposition of sentence. Nolle prosequi may enter for any part of the indictment. Commonwealth v. Harris, 75

Mass.App.Ct. 696, 702-704 (2009) (nolle prosequi entered after guilty verdict for current offense, but prior to trial on subsequent offender allegation).

The General Laws elaborate on applicable procedures for prosecuting repeat offenders.

Allegations proceed in bifurcated proceedings. From initial plea to verdict, inquiry only relates to the new crime charged; a jury hears no references which

characterize allegations as a subsequent offense.

Should the jury return a guilty verdict on those new charges, a second plea and trial may proceed on subsequent offender allegations. G.L. c. 278, § 11A.

The General Court has broad authority to define crimes and create punishments. Where the Legislature authorized cumulative punishment under two statutes, a court's job of statutory construction terminates and enforcement of the Legislature's intent properly proceeds. Commonwealth v. Alvarez, 413 Mass. 224, 231-232 (1992). Conversely, where the Legislature's intent is not clear, the court construes criminal statutes against the Commonwealth. If a statute is ambiguous and the court is unable to ascertain intent of the Legislature, a defendant receives the benefit of any rational doubt. Commonwealth v. Constantino, 443 Mass. 521, 524 (2005).

The double jeopardy clause protects the defendant from being subject to prosecution for the same offense twice. U.S. Const. am 14. Among the three categories encompassed by this doctrine are protection against (1) second prosecution for same offense after acquittal; (2) second prosecution for same offense

after conviction; and (3) multiple punishment for same offense. Commonwealth v. Leggett, 82 Mass.App.Ct. 730, 734 (2012). While the double jeopardy clause prohibits reexamination of an acquittal, an exception is made where a guilty verdict returns and a trial or appellate court later sets aside that verdict and enters a judgment of acquittal; in such case, the double jeopardy clause does not preclude further proceedings by the government to reinstate conviction against the accused. Smith v. Massachusetts, 543 U.S. 462, 467 (2005).

C. The Commonwealth's nolle prosequi runs contrary to the Legislature's intent to punish repeat offenders in a given penalty range.

In his bifurcated trial, the jury convicted Boyd for sawed off shotgun possession; the court found him guilty as a subsequent offender. (Middlesex Docket 6-7, RA-6-7). Following remand from the Appeals Court and prior to his second sentencing, the Commonwealth filed a nolle prosequi for the subsequent offender allegation on the firearms possession conviction.

(Resent-6) (Middlesex Docket 9-10, RA-9-10).

At Boyd's disposition after remand, the Commonwealth relied upon Leggett to press its claim to

plenary resentencing. (Resent-3-4). See Commonwealth v. Leggett, 82 Mass.App.Ct. 730, 736-737 (2012) (court applies analysis of defendant's legitimate expectation of finality to sentencing scheme in its totality, rather than constituent parts) (expectation of finality does not extend to each individual sentence within aggregate scheme for multiple convictions). Over defense objection, the court permitted the Commonwealth to offer its nolle prosequi for the subsequent offender allegation, firearms possession, in the second indictment. (Resent-5-6). Where simple firearms possession has a range of 18 months to life, the court imposed sentence of 12-15 years, without application of sentence enhancements. (Resent-10), G.L. c. 269, \$10(a), (c).

This nolle prosequi led to a sentence which diverges from legislative intent; for punishment of those convicted of firearm possession for a second time, the Legislature outlines a penalty range of 5-7 years. G.L. c. 269, § 10(c) and (d). In subsequent offender cases, the Legislature intended for imposition of single sentence. Prior offense is not an element of crime charged, but affects punishment

imposed if defendant convicted on new offense and prior offense proven. Bynum v. Commonwealth, 429

Mass. 705, 709 (1999). It informs the court on punishment imposed when conviction on new offense returns and prior offense is proven. Commonwealth v. Richardson, 469 Mass. 248, 249 (2014) (Legislature did not intend for two sentences to be imposed, one for the underlying offense and a second for having committed the offense after a prior conviction of the same offense).

As an initial matter, this court should consider whether the Commonwealth was time barred from offering its nolle prosequi. See Commonwealth v. Rivas, 466 Mass. 184, 190-191 (2013) (although Commonwealth has significant discretion to enter nolle prosequi, that discretion ends at sentencing) (decision on vacating duplicative conviction lies with sentencing judge). Boyd submits that the window for issuance of nolle prosequi was no longer open for the Commonwealth; that window closed when sentencing proceedings commenced. As such, remand is appropriate for the trial court to whether dismissal is consistent with legislative intent, as argued below.

Should this court decline to find the nolle prosequi as time barred, Boyd respectfully asks this court to enforce the penalty structure as authorized by the Legislature. Here, where a court, after secon phase of Boyd's bifurcated trial, returned conviction against him as a subsequent offender, imposition of sentence in the statutory range of 5-7 years is compelled. Permitting the Commonwealth to evade the Legislature's penalty range, by splitting the controlling statute with a nolle prosequi, is contrary to the Legislature's intent.

Where the plain language of a statute is ambiguous, review is through prism of the rule of lenity. This doctrine compels a reviewing court to resolve ambiguities in favor of the defendant.

Commonwealth v. Rollins, __ Mass. __ (Oct. 30, 2014).

For sawed-off shotgun possession, a tiered penalty structure applies, where (1) first conviction carries incarceration of 18 months to life; (2) second conviction carries five to seven years; (3) third conviction, seven to ten years; and (4) fourth conviction, ten to fifteen years. G.L. c. 269,

\$ 10(a), (c) and (d). Boyd submits that, with proper

consideration of available inferences, the Legislature intended to assign punishment of 5-7 years for his second offender conviction. Any other penalty, whether imposed by vehicle of nolle prosequi or judicial discretion, is inconsistent with the Legislature's intent.

Boyd acknowledges ambiguities in the shotgun possession penalty structure. One can wonder why the legislature caps penalty limits for every iteration of shotgun possession conviction, except the first. Read more closely, the structure implies that the General Court intended more severe punishment for every subsequent conviction, with its stepped mandatory minimums. Adopting available inferences in favor of the defendant, the statute's staggered penalty structure suggests punishment for first offenders at a lower range than that available for second offenders; while not directly stated, Boyd submits that the Legislature intended first offenders to receive punishment of less than 5-7 years.

The Commonwealth's nolle prosequi hijacks the Legislature' penalty structure. The General Court intended second offenders to receive 5-7 years. The

trial court convicted Boyd as a second offender.

Here, where the Commonwealth waited until his second sentencing to offer its nolle prosequi on a sentencing enhancement only, it invited the trial court to sentence Boyd to a term inconsistent with the Legislature's intent. Any nolle prosequi should encomplass the complete offense returned after jury and bench proceedings, possession after prior; such interpretation is consistent with legislative intent as shown in the structuring of this statute.

Mr. Boyd does not plead for absurd interpretation of the charging statute. His sentence of 12-15 years, for shotgun possession, is inconsistent with the Legislature's intent to punish offenders similar to him with 5-7 years. To permit otherwise, by vehicle of nolle prosequi or other, rejects the penalty structure devised by the Legislature. He now asks for relief on appeal to permit resentencing consistent with legislative intent.

CONCLUSION

Based upon the foregoing authorities and arguments, Mr. Boyd respectfully asks this court to vacate his sentence and remand for resentencing.

Respectfully submitted, Michael Boyd, Appellant,

By James/M. Fox, Esq.

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FORMAT COMPLIANCE CERTIFICATION

This brief complies with the format requirements of the Massachusetts Rules of Appellate Procedure.

James M. Fox, Esq.

ADDENDUM

G.L. c. 278, § 11A (2d offender sentencing).

If a defendant is charged with a crime for which more severe punishment is provided for second and subsequent offenses, and the complaint or indictment alleges that the offense charged is a second or subsequent offense, the defendant on arraignment shall be inquired of only for a plea of guilty or not guilty to the crime charged, and that portion of the indictment or complaint that charges, or refers to a charge that, said crime is a second or subsequent offense shall not be read in open court. If such defendant pleads not guilty and is tried before a jury, no part of the complaint or indictment which alleges that the crime charged is a second or subsequent offense shall be read or shown to the jury or referred to in any manner during the trial;

. .

If a defendant pleads guilty or if there is a verdict or finding of quilty after trial, then before sentence is imposed, the defendant shall be further inquired of for a plea of quilty or not quilty to that portion of the complaint or indictment alleging that the crime charged is a second or subsequent offense. If he pleads quilty thereto, sentence shall be imposed; if he pleads not guilty thereto, he shall be entitled to a trial by jury of the issue of conviction of a prior offense, subject to all of the provisions of law governing criminal trials. A defendant may waive trial by jury. The court may, in its discretion, either hold the jury which returned the verdict of guilty of the crime, the trial of which was just completed, or it may order the impanelling of a new jury to try the issue of conviction of one or more prior offenses. Upon the return of a verdict, after the separate trial of the issue of conviction of one or more prior offenses, the court shall impose the sentence appropriate to said verdict.

(https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter278/Section11A) (last visited Nov. 5, 2014).

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Commonwealth of Massachusetts MIDDLESEX SUPERIOR COURT Case Summary Criminal Docket

Commonwealth v Boyd, Michael S

Details for Docket: MICR2008-01271

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Docket Number:

MICR2008-01271

Caption:

Commonwealth v Boyd,

Michael S

Entry Date:

10/28/2008

Case Status:

Crim 2 Ct Rm 530

Status Date:

09/02/2014

Session:

Disposed: Entered in Appeals

Court

Lead Case:

NA

Deadline Status:

Active since

Trial Deadline:

11/10/2008

Jury Trial:

NO

Parties Involved

2 Parties Involved in Docket: MICR2008-01271

Boyd

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Commonwealth

RA-1

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Calendar Events

34 Calendar Events for Docket: MICR2008-01271

रेळ	त्रप्रभुग्धः श्रेन्द्रभः	ग्ल्यक्ति भौकारम	्रावसकाः यगवसः	SIS	ંમપ્રવાસ કોરાઇક
1	11/05/2008	09:00	Arraignment	CM	Event held as scheduled
2	11/13/2008	14:00	Bail: 58A Review	1	Event continues over multiple days
3	11/17/2008	11:00	Bail: 58A Review	1	Event held as scheduled
4	11/24/2008	09:00	Conference: Pre-Trial	CM	Event held as scheduled
5	02/11/2009	09:00	Status: Filing deadline	CM	Event held as scheduled
6	03/11/2009	14:00	Hearing: Non-Evidentiary - Dismiss	2	Event held as scheduled
7	04/06/2009	09:00	Hearing: Evidentiary- suppression	2	Event held(ACTIVE) under advisement
8	05/06/2009	14:00	Hearing: Pre-Trial	2	Event held as scheduled
9	06/10/2009	14:00	Hearing: Discovery Motions	2	Event not heldjoint request
10	07/20/2009	14:00	Conference: Final Pre-Trial	2	Event held as scheduled
11	08/03/2009	09:00	TRIAL: by jury	2	Event rescheduled by court prior to date
12	10/05/2009	14:00	Conference: Final Pre-Trial	2	Event held as scheduled
13	10/19/2009	09:00	TRIAL: by jury	2	Event not heldreq of Defendant
14	11/13/2009	09:00	TRIAL: by jury	2	Held in Session Ready for trial
15	11/16/2009	09:00	TRIAL: by jury	2	Trial begins
16	11/17/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
17	11/18/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
18	11/19/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
19	11/20/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
20	11/23/2009	09:00	TRIAL: by jury	2	Event continues over multiple days

21	11/24/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
22	11/25/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
23	11/30/2009	09:00	TRIAL: by jury	2	Event continues over multiple days
24	12/01/2009	09:00	TRIAL: by jury	2	Trial ends
25	12/02/2009	11:00	TRIAL: jury waived	2	Event continues over multiple days
26	12/03/2009	11:00	TRIAL: jury waived	2	Trial ends
27	12/04/2009	09:00	Hearing: Sentence Imposition	2	Event held as scheduled
28	12/11/2009	14:00	Status: Administrative Review	2	Event held as scheduled
29	04/03/2014	14:00	Conference: Status Review	3	Event not reached by Court
30	05/12/2014	14:00	Hearing: Sentence Revise/Revoke	3	Event rescheduled by court prior to date
31	05/29/2014	14:00	Hearing: Sentence Revise/Revoke	3	Event continues over multiple days
32	06/12/2014	14:00	Hearing: Sentence Revise/Revoke	3	Event continues over multiple days
33	06/23/2014	14:00	Hearing: Sentence Revise/Revoke	3	Event not reached by Court
34	07/10/2014	14:00	Hearing: Sentence Revise/Revoke	3	Event held as scheduled

Full Docket Entries

251 Docket Entries for Docket: MICR2008-01271

,	निर्वेद्देशकोद्धः	Paper No-s	Docker antry
	10/28/2008	1	Indictment returned
	10/28/2008		Offense 003 has armed career criminal attached
	11/05/2008		Deft arraigned before Court. Michael Sullivan, CM
1	11/05/2008		RE Offense 1:Plea of not guilty
1	11/05/2008		RE Offense 2:Plea of not guilty
}	11/05/2008		RE Offense 3:Plea of not guilty
,	11/05/2008		RE Offense 4:Plea of not guilty
	11/05/2008		RE Offense 5:Plea of not guilty
,	11/05/2008		RE Offense 6:Plea of not guilty
	11/05/2008		RE Offense 7:Plea of not guilty
)	11/05/2008		RE Offense 8:Plea of not guilty
)	11/05/2008		RE Offense 9:Plea of not guilty
)	11/05/2008		RE Offense 10:Plea of not guilty
	11/05/2008		Bail: Defendant held without bail
	11/05/2008		Bail warning read
,	11/05/2008	2	Affidavit of indigency filed; approved
Ì			
1	11/05/2008	3	Statement of Appointment of John H LaChance pursuant to SJC Rule 1:07

11/05/2008	4	ORDERED: Assessing statutory fee for appointment of counsel
11/05/2008	5	Notice of assignment of counsel filed. By John H LaChance C4693644-4
11/05/2008	6	Commonwealth files Statement of the case
11/05/2008		Mittimus issued
11/05/2008		Continued to 11/13/2008 for hearing PTC Michael Sullivan, CM
11/05/2008	•	Appearance of Commonwealth's Atty: Michael L Fabbri
11/05/2008		Appearance of Deft's Atty: John H LaChance
11/05/2008		Reporter present: Belanger, Robin (Digital Recording device)
11/05/2008		Assigned to track "C" see scheduling order
11/05/2008		Tracking deadlines Active since return date
11/24/2008	7	Memorandum Of Decision And Order On Commwealth's Motion Pursuant To
11/24/2008	7	G.L. c. 276 S58A Based on the foregoing and, notwithstanding
11/24/2008	7	mitigating evidence presented by the defendant, I find that the
11/24/2008	7	Comonwealth has proved by clear and convincing evidence that the
11/24/2008	7	defendant poses a danger to himself, to Hollingsworth and their
11/24/2008	7	children and to the community and that there are no conditions of
11/24/2008	7	release that will reasonably assure their safety. It is therefore
11/24/2008	7	Ordered that the defendant be detained pending trial pursuant to
11/24/2008	7	G.L.c. 276 S 58A. (Diane M. Kottmyer, Justice) both sides notified.
11/24/2008	8	Case Tracking scheduling order (Michael Sullivan Clerk Magistate)
11/24/2008	8	mailed 11/28/2008
11/24/2008	9	Pre-trial conference report filed
12/11/2008	10	Commonwealth files Notice of Discovery
01/28/2009	11	Commonwealth files Notice of Discovery (Revised)
01/28/2009	12	MOTION by Deft: for funds-transcripts
02/02/2009		MOTION (P#12) allowed (Elizabeth M. Fahey, Justice). Copies mailed
02/02/2009		2/3/2009
02/11/2009	13	MOTION by Deft: For funds for Forensic Psychologist /Psychiatrist
02/11/2009	14	MOTION by Deft: For funds - Firearm expert
02/11/2009	15	MOTION by Deft: To Suppress Statements
02/11/2009	16	Affidavit of Michael Boyd
03/11/2009		Defendant makes oral motion to review bail. Previous bail revoked.
03/11/2009		Bail set: \$50,000 Cash \$500,000. surety (Fahey,J)
03/11/2009		Bail warning read
03/11/2009		Mittimus issued
03/11/2009		Reporter present: O'Neill, Christina
03/23/2009	17	MOTION by Deft: for Funds - Medical Records Expenses
04/06/2009		Hearing on (P#15) Defendant's Motion to Suppress Statements held,
04/06/2009		matter taken under advisement (Hamlin, J.)
04/06/2009		Exhibits Motion To Suppress
04/13/2009	18	Commonwealth files opposition to defendants motion to suppress
04/13/2009	18	statements RA-5
		C*An

RA-5

08/11/2009		Finding by Court: Findings, Rulings And Order On Defendant's Motion
08/11/2009		To Suppress StatementsORDER For the foregoing reasons, it is
08/11/2009		herby ORDERED that the defendant's Motion to Suppress be DENIED.
08/11/2009		(Sandra L. Hamlin, Justice) Both sides notified.
09/04/2009		Exhibits filed in Vault #207A
11/13/2009	19	MOTION by Commonwealth: in limine to introduce excited utterance filed
11/13/2009	20	MOTION by Deft: to sequester filed in court
11/13/2009		MOTION (P#20) allowed (Sandra Hamlin, Justice).
11/13/2009	21	MOTION by Deft: for complete transcript filed
11/13/2009		MOTION (P#21) allowed (Sandra Hamlin, Justice).
11/16/2009		Records from Middlesex Sheriff's Office Received
11/16/2009	22	MOTION by Deft: to continue or in the alternative for individual jury
11/16/2009	22	voir dire on the ussue of pre-trial publicity
11/16/2009	23	MOTION by Deft: for additional peremptory challenges
11/16/2009	24	MOTION by Deft: in limine to preclude the commonwealth from
11/16/2009	24	impeaching the defendants credibility with evidence of prior
11/16/2009	24	conviction(s)
11/16/2009	25	MOTION by Deft: in limine-use of the word "victim" filed
11/16/2009		MOTION (P#25) allowed (Sandra Hamlin, Justice).
11/16/2009	26	Commonwealth files list of potential witnesses
11/16/2009	27	Deft files request for voir dire questions of prospective jurors
11/17/2009		Record from the Suffolk County SHeriff Received
11/17/2009		MOTION (P#13) allowed (Sandra Hamlin, Justice).
11/19/2009	28	Commonwealth files proposed jury instructions
11/23/2009	29	MOTION by Deft: for a required finding of not guilty filed in court
11/23/2009		MOTION (P#29) denied (Sandra Hamlin, Justice).
11/23/2009	30	Commonwealth files supplemental notice of discovery
11/24/2009	31	Deft files requests for jury instructions
11/25/2009	32	002,003,005,006,009,010-Verdict of guilty
11/25/2009		RE Offense 2:Guilty verdict
11/25/2009		RE Offense 3:Guilty verdict
11/25/2009		RE Offense 5:Guilty verdict
11/25/2009		RE Offense 6:Guilty verdict
11/25/2009		RE Offense 9:Guilty verdict
11/25/2009		RE Offense 10:Guilty plea
11/25/2009	33	004,007 & 008-Verdict of not guilty
11/25/2009		RE Offense 4:Not guilty verdict
11/25/2009		RE Offense 7:Not guilty verdict
11/25/2009		RE Offense 8:Not guilty verdict
11/25/2009		After charge and before deliberation Jurors Name and No Peter
11/25/2009		McDonald21453570 Jason Santos 21448095 Kim Butze 18695767 Nicholas
11/25/2009		Bitzel 21485098 were withdrawn from panel ch 234As44 as amended
		RA-6

11/25/2009		Reporter present: Carleton, Mary G.
11/30/2009		Juror No 21442172 George McLean discharged by the court. Juror No
11/30/2009		21485098 Nicholas Ritzel added to panes Juror 21476011 Michell Whelan
11/30/2009		discharged juror no 18695767 Kim Butze added to panel
11/30/2009		Reporter present: Goldberg, Erika
11/30/2009		Previous bail revoked no bail mittimus issued
11/30/2009		001-Court declares a Mistrial
12/01/2009		002,003,005,006-Deft arraigned before Court and pleads not guilty
12/01/2009		(Hamlin,J)
12/01/2009		Continued to 12/2/2009 for hearing on jury waived trial (Sandra
12/01/2009		Hamlin, Justice)
12/01/2009		Reporter present: Carleton, Mary G.
12/01/2009	34	002- Waiver of trial by jury Possession firearm subsequent offense
12/01/2009	35	002-Waiver of trial by jury Armed career criminal
12/01/2009	36	003-Waiver of trial by jury Possession of ammunition subsequent
12/01/2009	36	offense
12/01/2009	37	003-Waiver of trial by jury Armed career criminal
12/03/2009	38	002-Finding of guilty Possession firearm subsequent offense (Sandra
12/03/2009	38	Hamlin, Justice)
12/03/2009	39	002-Finding of guilty Armed career criminal (Sandra Hamlin, Justice)
12/03/2009		Defendant sentenced to 002-General sentence MCI Cedar Junction for a
12/03/2009		term not exceeding 17 years or less than 15 years (Sandra Hamlin,
12/03/2009		Justice)
12/03/2009		Defendant sentenced to 003-General Sentence MCI Cedar Junction for a
12/03/2009		term not exceeding 17 years or less than 15 years this sentence to be
12/03/2009		served concurrently with the sentence imposed this day in
12/03/2009		#2008-1271-002 (Sandra Hamlin, Justice)
12/03/2009	40	003Finding of guilty Possession of ammunition subsequent offense
12/03/2009	40	(Sandra Hamlin, Justice)
12/03/2009	41	003-Finding of guilty Armed career criminal (Sandra Hamlin, Justice)
12/03/2009		Defendant sentenced to 005-Defendant as principal and Sylvia Gomes as
12/03/2009		surety recog in \$100 and on probation 10 years this sentence to take
12/03/2009		effect from and after the expiration of the sentence imposed this day
12/03/2009		in #2008-1271-002 Conditions: 1)Evaluation for parenting classes
12/03/2009		2)Seek/maintain employment 3)Obtain GED 4)Mental health evaluation
12/03/2009		and any treatment as deemed necessary by the probation dept
12/03/2009		5)Sibstance abuse evaluation and any treatment as deemed necessary
12/03/2009		the the probation dept 6)No possession of firearms weapons or
12/03/2009		ammunition (Sandra Hamlin, Justice)
12/03/2009		Defendant sentenced to 006,009, 010-Defendant as principal and Sylvia
12/03/2009		Gomes as surety recog in \$100 and on probation 10 years this sentence
12/03/2009		to be served concurrently with the sentence imposed this day in

12/03/20	009	2008-1271-005 same terms and conditions (Sandra Hamlin, Justice)
12/03/20	009	Sentence credit given as per 279:33A: 435 days
12/03/20	009	Mittimus issued
12/03/20	009	Notified of right of appeal under Rule 64
12/03/20	009	Notified of right of appeal under Rule 65
12/03/20	009	Sentence stayed until 12/4/2009 at 9am (Sandra Hamlin, Justice)
12/03/20	009	Reporter present: Carleton, Mary G.
12/03/20	009 42	Order on statutory fees (Sandra Hamlin, Justice)
12/03/20	009	Victim-witness fee assessed: \$90 (Sandra Hamlin, Justice)
12/03/20	009	Probation supervision fee assessed or community service (Sandra
12/03/20	009	Hamlin, Justice)
12/04/20	009	Sentence in full force and effect (Sandra Hamlin, Justice)
12/04/20	009	Mittimus issued
12/04/20	009	Exhibits filed
12/10/20	009 43	Commonwealth Files Partial Nolle Prosequi Offense 001.
12/11/20	009	RE Offense 1:Nolle prosequi
12/17/20	009 44	NOTICE of APPEAL FILED by Michael S Boyd
12/17/20	009 45	MOTION by Deft: to withdraw
12/17/20	009 46	MOTION by Deft: for appointment of appellate counsel
12/31/20	009	Court Reporter O'Neill, Christina is hereby notified to prepare one
12/31/20	009	copy of the transcript of the evidence of 03/11/2009 Motion to dismiss
12/31/20	009	Court Reporter Carleton, Mary G. is hereby notified to prepare one
12/31/20	009	copy of the transcript of the evidence of 04/06/2009 motion to
12/31/20	009	suppress & 11-16,17,18,19,20,23,24,25, 2009 and 12-1-,2,3.4.11 09
12/31/20	009	Trial
12/31/20	009	Court Reporter Goldberg, Erika is hereby notified to prepare one copy
12/31/20	009	of the transcript of the evidence of 11/30/2009 Trial
01/06/20	010	Victim-witness fee paid as assessed \$90
01/07/20)10	Transcript of testimony One Volume of November 30, 2009 from court
01/07/20)10	reporter, Goldberg, Erika
01/14/20)10 .	Transcript of testimony received Three Volumes of November 17, 1-8, &
01/14/20)10	19, 2009 from court reporter, Carleton, Mary G.
01/26/20)10 47	Notice of assignment of counsel filed. James Fox, Esq (C8013169-3)
02/05/20	010	Transcript of testimony received Two Volumes of December 2 & 3, 2009
02/05/20	010	from court reporter, Carleton, Mary G.
02/05/20	010	Appearance of Deft's Atty: James M Fox
02/16/20	010	No Transcript as this was only a status date. Nothing was put on the
02/16/20)10	record
02/16/20	010	Transcript of testimony received Five Volumes of November 20,
02/16/20)10	23,24,25,2009 and Decemb er 1, 2009 from court reporter, Carleton,
02/16/20	010	Mary G.
04/09/20	010	Transcript of testimony received One Volume of March 11, 2009 from RA-8
4		

04/09/2010		court reporter, O'Neill, Christina
08/03/2010		No Transcript as this was only to come in and be put into custody
08/03/2010		No Transcript as Mary Carleton was not the reporter
08/20/2010	48	MOTION by Deft: For additional funds-transcripts
12/01/2010		Notice of assembly of record; two sets one volume in each set of
12/01/2010		court reporter Christina O'Neill mailed to the appeals court this day
12/01/2010		Notice of assembly of record; two sets 11 Volumes in each set of
12/01/2010		court reporter Mary Carleton mailed to the Appeals court this day
12/01/2010		Notice of assembly of record; Two sets one volume in each set of
12/01/2010		court reporter Erika Goldber mailed to the appeals court this day
12/01/2010	49	Notice of assembly of record; two certified copies of docket entries,
12/01/2010	49	two sets of the transcript of evidence and P#44 Notice of Appeal sent
12/01/2010	49	to the clerk of the appreals court this day
12/01/2010		Notice of assembly of record; sent to John LaChance, Esq and Jim
12/01/2010		Sahakian,ADA
12/06/2010	50	Notice of Entry of appeal received from the Appeals Court 12/1/2010
12/06/2010	50	RE: No. 2010-P-2111
06/28/2011		Appearance of Commonwealth's Atty: Michael Kaneb
07/28/2011		Court Reporter Rattigan, Linda is hereby notified to prepare one copy
07/28/2011		of the transcript of the evidence of 11/16/2009
09/29/2011		Transcript of testimony received One Volume of November 16, 2009 from
09/29/2011		Transcript of proceedings from Court Reporter Rattigan, Linda
11/07/2011		Notice of assembly of record; one set one volume in each set of court
11/07/2011		reporter Linda Rattigan 11-16-09 mailed to the appeals court this day
03/19/2014	51	Notice of assignment of counsel filed. By Attorney, Henry Fasoldi,
03/19/2014	51	C51512193
04/14/2014	52	Rescript received from Appeals Court; The Judgements on the two
04/14/2014	52	sentencing enchancement counts under the Massachusetts Armed Career
04/14/2014	52	Criminal Act are Reversed and Those Findings are set aside. The
04/14/2014	52	remaining convictions are affirmed but the matter is remanded for
04/14/2014	52	resentencing
05/04/2014	53	Deft files Motion to Correct Sentence - Vacate Conviction as
05/04/2014	53	Duplicative - Possession of Ammunition, Indictment 002, with
05/04/2014	53	sentencing memorandum attached. (to Judge Hamlin 540)
05/29/2014		Hearing on [specify:event] set for [date:date]
06/10/2014	54	Deft files Memorandum of Law
06/12/2014	55	Memorandum of Law
06/12/2014	56	Sentencing Memorandum
07/09/2014	57	Commonwealth files Partial Nolle Prosequito so much as alleges
07/09/2014	57	Possesion of Firearm Subsequent Offense, M.G.L ch. 269, Sec10(d) only.
07/10/2014		Defendant's MOTION for Allowed by Agreement of the parties Conviction
07/10/2014		as to Indictment 003 is hereby vacated. Attest: Jonathan B. Higley,

	07/10/2014		Ak (Hanmlin J.)
	07/10/2014		RE Offense 2:Nolle prosequi
	07/10/2014	58	Notice of appeal from sentence to Cedar Junction MCI (Walpole) filed
	07/10/2014	58	by Michael S Boyd
	07/11/2014	59	NOTICE of APPEAL FILED by Michael S Boyd
	07/11/2014	60	Attorney, Henry Fasoldt's MOTION to withdraw as counsel of record for
	07/11/2014	60	Michael S Boyd & Appoint Appellate counsel
	07/22/2014		Attested copy of indictment, docket entries mailed to the clerk of
	07/22/2014		the appellate division
	07/23/2014	61	Notice of assembly of record; two certified copies of docket entries
	07/23/2014	61	one set of the Order on vacated sentence and P#59 Notice of appeal
	07/23/2014	61	sent to the Clerk of the Appeals court this day
,	07/23/2014		Court Reporter Newman, Debra - Digital Recording Device - Clrks
	07/23/2014		Office is hereby notified to prepare one copy of the transcript of
	07/23/2014		the evidence of 07/10/2014
	08/15/2014		Transcript of testimony received One Volume of July 10, 2014 from
	08/15/2014		Transcript of proceedings from Court Reporter Newman, Debra - Digital
	08/15/2014		Recording Device - Clrks Office produced by Donna Holmes
	08/15/2014	62	Notice of assembly of record; one set one volume in each set of court
	08/15/2014	62	reporter JAVS system 7-10-14 mailed to the appeals court this day
	08/15/2014		Notice of assembly of record; sent to Jim Sahakian, ADA and James Fox
	08/15/2014		Esq
•	09/02/2014	63	Deft files Motion To Revise & Revoke With Attached Affidavit
	09/02/2014	64	Notice of Entry of appeal received from the Appeals Court

Charges

10 Charges for Docket: MICR2008-01271

1 2 3 4 5 6 7 8	ASSAULT TO MURDER, ARMED c265 s18(b) SHOTGUN, POSSESS SAWED-OFF c269 s10(c) FIREARM WITHOUT FID CARD, SUBSQ.OFF. c269 s10(h) A&B c265 s13A(a) RECKLESS ENDANGERMENT OF CHILD c265 s13L RECKLESS ENDANGERMENT OF CHILD c265 s13L ASSAULT W/DANGEROUS WEAPON c265 s15B(b) ASSAULT W/DANGEROUS WEAPON c265 s15B(b) FIREARM CARRY WITH AMMUNITION c 269, s 10(n)	Nolle prosequi Nolle prosequi Guilty verdict Not guilty verdict Guilty verdict Guilty verdict Not guilty verdict Not guilty verdict Not guilty verdict Guilty verdict
9 10	FIREARM CARRY WITH AMMUNITION c 269, s 10(n) FIREARM, DISCHARGE WITHIN 500 FT OF BLDG c269 s12E	Guilty verdict Guilty plea

Armed Assault to Murder C.265, §18(b)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, being armed with a dangerous weapon, to wit: a shotgun, did assault Officer John Moore with intent to murder him.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Status 1 10 Cer. Foreperson of the Grand Tury.

Assistant District Attorney.

Superior Court

October Gitting, 20<u>08</u>

1 th day - Returned by the Grand Jury and filed in Court.

RA-11

) (a) S. Bokerto

Assistant Clork

A PARALLA .

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Ball set at Allee who Bail Bail Warning given Mitt Issued

STEND ROBIN BELLENGE CLERK MAGISTRATE
CONTINUED TO 1/1/3/08
Added: Dennit Giels
And Cloud

Hilad Sullian

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milt israd. Sundy. Bal warning grain. Ban fort at #50,000 cash #500,000 review bail frevious ban revolled Different matter and motion to

Ry me aunt: Kanay, J. CIRIC O'NEM

20/27 Workmine 25 acoa November as

After Charge and before deliberation ON DUE BURN ENGLY

Were withdrawn from panel, Ch.234A,S44

By the Court Bathe Court Hamulis V. cia: many cantety 1) Jonathan B Hickey

> to firmed. Nicholas Ritzel added Jum No. 21485,098 by me Count. Occupe Milcan dischanged Junea 100, 21442172

By the Court: Hander, J) CIR: Emidia Collabory good November 30

Jum No. 18695767 Kin Dute added to by the count. michalle whelm dichanged Juan No. 21476011

2009 November 30 By the Court: Hamlin. J. ela: Eniden Guldbing できる。

Byth Ounts Hamulin J. CIR. Minus Carleton Count decimes a mothera. By the Count: Itemplian J. 2009 Deanhar CIR: CANKA Goldberg Dist Miltimes issued. Previous bon personed No

Possession of Sawed-Off Shotgun C.269, §10(c)

Commonwealth of Massachusetts

Miz	ldlese	vIΛ	- VA/ 11 *
A 1 1		A. LU	77 11.

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did own, possess, or carry on his person, or carry on his person or under his control in a vehicle, a sawed-off shotgun, as defined in Section 121 of Chapter 140 of the General Laws.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Andre // Journ Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 20<u>08</u>

 12^{th} day - Returned by the Grand Tury and filed in Court.

RA-13

Augustant Clock

Defendant Arraigned & Pleads Not Guilty

2009 November 30 Uerdit Guilty Oll: Erika Goldberg By Im Court, Hamden, 5

RA-14

Possession Firearm Subsequent Offense C.269, §10(d)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, was previously convicted of any of the offenses set forth in paragraph (a), (b) or (c) of General Laws Chapter 269, Section 10, to wit: unlawful possession of a firearm out of the Suffolk Superior Court on 05/14/02, no. 2001-10682.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

10th day - Returned by the Grand Jury and filed in Court.

RA-15

Assistant Clerk

Ans D. 1171.11 2

Defindant is arrangered and prevades not gue the commend with 12/2/09 for CIRS MAMY CARLETON 3

By the Count, Hamein 3

2009 December 3

Finding of Guilty.

The Many Contictor

in the Court: Hambur J.

RA-16

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

has, before the commission of the crime hereinbefore, charged to wit: unlawful possession of a sawed-off shotgun, been previously convicted of three violent crimes or of three serious drug offenses, or of any combination thereof totaling three, both as defined in Section 10G(e) of Chapter 269 of the General Laws, arising from separate incidences, to wit: assault and battery by means of a dangerous weapon and assault and battery on 12/06/99 out of the Dorchester Juvenile Court, no. DL99D1524; assault and battery (two counts) on 06/24/99 out of the West Roxbury Juvenile Court, no. DL99W0271; and assault and battery by means of a dangerous weapon and assault and battery on 08/21/98 out of the West Roxbury Juvenile Court, no. 9806JV0259. It appears, therefore that said Michael C. Boyd upon conviction of the crime hereinbefore charged, is subject to the provisions of Section 10G(c) of Chapter 269 of the General Laws.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

ANSTELL COM Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

13 (17) day - Returned by the Grand Jury and filed in Court.

FRARAR

RA-17

Dia & Roberts

Assistant Clerk

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Clk: Ormy Conteters
By the Count, Hambers J. Combard world for for pleads not smilhy Defendant is arrayed and

2009 Deamber 3

Andy of Guilty

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INSTITUTION, Ledinal Juncher

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Superior Court" for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, B, C. Cou:t of his right to appeal sentence this day imposed to the "Appellate Division of the Defendant has been notified by Clerk in open 2009 1) camber 3

Court Appeals Court right to appeal to the Supreme Judicial Defendant notified in open court of his

12/4/09 at 9100m. Sentence shaped until

Clui Many Carleton By the Count: Hamdin. J

Mithmir Wird. Serbora in full force ずるくだった。 2009 December 4

Possession of Ammunition C.269, §10(h)

Commonwealth of Massachusetts

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VΙ	ıu	u	CNCX	111	w	11.

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd:

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did own, possess or transfer possession of ammunition without complying with the requirements relating to the firearm identification card provided for in Section 129C of Chapter 140 of the General Laws.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

SNOCIAL / 1/01er Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 20<u>08</u>

 12^{17} day - Returned by the Grand Jury and filed in Court.

1 money

RA-19

Jia S. Roberts

Assistant Clerk

カック・ハグトイイン

Defendant Arraigned & Pleads Not Guifty

Verdant Gridling
Cife Court Gridling
By the Quart Hornian, J.

Possession Ammunition Subsequent Offense C.269, §10(h)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, was previously convicted of the offense set forth in paragraph (h) of General Laws Chapter 269, Section 10, to wit: unlawful possession of ammunition out of the Suffolk Superior Court on 05/14/02, no. 2001-10682.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

12 th day - Returned by the Grand Jury and filed in Court.

PARMAI

RA-21

Miller of Blank

Defendant is Arrayred and pleader the Guilty Carbanus until 12/2/09 Per Juny Carleton Cle: Many Carleton By the Count: Handun J.

2009 December 3

Finday of Guilty.

Cur. Many Carleton

finday of Guilty.

cur. Many Carleton

for Court Handin.

Armed Career Criminal C.269, §10G(c)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

has, before the commission of the crime hereinbefore, charged to wit: unlawful possession of ammunition, been previously convicted of three violent crimes or of three serious drug offenses, or of any combination thereof totaling three, both as defined in Section 10G(e) of Chapter 269 of the General Laws, arising from separate incidences, to wit: assault and battery by means of a dangerous weapon and assault and battery on 12/06/99 out of the Dorchester Juvenile Court, no. DL99D1524; assault and battery (two counts) on 06/24/99 out of the West Roxbury Juvenile Court, no. DL99W0271; and assault and battery by means of a dangerous weapon and assault and battery on 08/21/98 out of the West Roxbury Juvenile Court, no. 9806JV0259. It appears, therefore that said Michael C. Boyd upon conviction of the crime hereinbefore charged, is subject to the provisions of Section 10G(c) of Chapter 269 of the General Laws.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

 $D^{\dagger N}$ day - Returned by the Grand Jury and filed in Court.

BA-23

Assistant Clerk

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By the Count: Hamler, J. Juny works turn 2009 Dramby 3 phass mot Cully Control water 1212/09 for Definant is manyind and

Commonwealth moves for finding of Guilty.

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General Sentine sertening.

MITENCE - MASSACHUSETTS CORRECTIONAL

STITUTION, Cedar Juchan

OR A TERM NOT EXCEEDING YEARS, OR LESS

> 2008 - 1271 - 002 the sentence imposed this day in # This sentence to be served concurrently with

Superior Court* for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, B, C. Defendant has been notified by Clerk in open Court of his right to appeal sentence this day 2069 December 3 mposed to the "Appellate Division of the Hamila

Court Appeals Court. Defendant notified in open court of his right to appeal to the Supreme Judicial

4135 Days Jan Creat per Agrammer of the noted on the Drithmis

Sentence stante until cit; many Conteton. 12/4/09 st 9:00 am Bythe Court Handun, J. partie.

2009 Dramber 4 finkers in full force ind

Assault and Battery Upon Pregnant Person C.265, §13A(b)(ii)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did assault and beat Tanya Hollingsworth, who was pregnant at the time of such assault and battery, knowing or having reason to know that Tanya Hollingsworth was pregnant.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Foreperson of the Grand Jury.

Assistant District Attorney

Superior Court

October Sitting, 2008

10th day - Returned by the Grand Jury and filed in Court.

COMMI

RA-25

Historiani Clork

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Defendant Arraigned & Pleads Not Guilty

2009 November 30

Verdict Wet Gulty.

CIK: EMIKA Goldberg.

By the Camt, Ithmun, J.

Josq December 2

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Defendant dischanged

CIK: Many Cratetan

CIK: Many Cratetan

By the Count: Handen. T.

Reckless Endangerment of Child C.265, §13L

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Sarke | | [Olin Foreperson of the Grand Tury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

12 day - Returned by the Grand Jury and filed in Court.

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RA-27

)(W.S. Roherts Assistant Clork

Detendant Arraigned & Pleads Mot Guilty

2009 December 1

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CIK: Many Circleton
By the Count: Harrely. 5.

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This servence to take effect from and after the expiration of the senvence imposed this day in # 3.008 - 01271 - 002

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) evaluation for parentage classes, seek I manitain employment

(4) mental health evaluation and any treatment as desired by the Prubation Dyot. Bubstance abuse evaluation and any treatment as deemed and any treatment as deemed recessary by the Prubation Dyot.

(6) No possession of fine mans, we repost on amount to.

Defendant notified in open court of his right to appeal to the Supreme Judicial Court Appeals Court.

Defendant has been notified by Clerk in open Court of his right to appeal sentence this day Imposed to the "Appellate Division of the Superior Court" for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, B, C.

CIR: MARY Contitor

Reckless Endangerment of Child C.265, §13L

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

DND | | 100. Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

10 th day - Returned by the Grand Jury and filed in Court.

RA-29

Na S Roberts

Assistant Clerk

20mc-1771.006

Defendant Arraigned & Pleads Not Guilty

2009 November 20

guaging enima inj Vendir Guilty,

By the Count: Homer, J.

2009 December 3

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By the Court, recog. in \$100.00 and on probation 10 years

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500-12C1-800E the sentence imposed this day in # This sentence to be served concurrently with

same tums/ conditions.

right to appeal to the Supreme Judicial Defendant notified in open court of his Court Appeals Court.

2009 Pramby 3

Court of his right to appeal sentence this day imposed to the "Appellate Division of the Superior Court" for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, B, C. Detendant has been notified by Clerk in open Hamus

Clys: Many Canders

By the Count: Hamelin. J.

Assault by Means of a Dangerous Weapon C.265, §15B(b)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, by means of a dangerous weapon, to wit: a shotgun, did commit an assault upon Detective Leonard Pini.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

MICHA WILL.
Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

 12^{10} day - Returned by the Grand Jury and filed in Court.

BA-31

(a) D. [VONLO]
Assistant Clock

Hssistant Glork

Defendant Arraigned & Pleads Not Guitty

2009 Wovember 30

Vendit NOT Gilly.

CIR: Eniser Goldberg

By the Cant: Harden 3

2009 December 2

Defendant dischanged.

CIR: Many Condutors

Dythe Count: Harden. J.

U D

Assault by Means of a Dangerous Weapon C.265, §15B(b)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, by means of a dangerous weapon, to wit: a shotgun, did commit an assault upon Officer Michael McCann.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

Foreperson of the Grand Jury.

Assistant District Attorney

Superior Court

October Sitting, 2008

15 day - Returned by the Grand Jury and filed in Court.

RA-33

(a) S. Dehatt

Assistant Clork

100, 0-1171 "

Defendant Arraigned & Pleads Not Guilty

Deader November 30

Verdet Not Builty.

Cle: Eniter Goldbery

By the Count: Hander, J.

De fendant discharged

Cle: Many Cardedon

By the Count: Handeria.

RA-34

Possession Loaded Firearm C.269, §10(n)

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That:Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, violates paragraph (a) or paragraph (c) of General Laws Chapter 269, Section 10, by means of a loaded firearm, loaded sawed off shotgun or loaded machine gun.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

Foreperson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

<u>12 th</u>day - Returned by the Grand Jury and filed in Court.

RA-35

Austant Block

Defendant Arraigned & Pleads Not Guilty

2009 Wovenbar 30

Dendrit Guilty.
CIK: Mr Exilex Goldberg
Ry the Court: Hamding 5,

2009 Deamber 3

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By the Court,

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This sentence to be served concurrently with the sentence imposed this day in #

2008 - 1271 - 005

Same tuns / conditions.

Defendant notified in open court of his right to appeal to the Supreme Judicial Court Appeals Court.

Detendant has been notified by Clerk in open Court of his right to appeal sentence this day imposed to the "Appellate Division of the Superior Court" for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, B, C.

1)

By the Court: Handin T.

Discharging Firearm C.269, §12E

Commonwealth of Massachusetts

Middlesex, To Wit:

At the SUPERIOR COURT, begun and holden at the CITY OF WOBURN, within and

for the County of Middlesex, on the First Monday of October in the year of our Lord two thousand eight.

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present,

That Michael S. Boyd

on the 24th day of September in the year of our Lord two thousand eight at Framingham, in the County of Middlesex aforesaid, did discharge a firearm, rifle or shotgun as defined in Section 121 of Chapter 140 of the General Laws, within 500 feet of a dwelling or other building in use, without the consent of the owner of legal occupant thereof.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

And In Toroporson of the Grand Jury.

Assistant District Attorney.

Superior Court

October Sitting, 2008

12 day - Returned by the Grand Tury and filed in Court.

RA-37

Absistant Clork

Defendant Arraigned & Pleads Not Guifty

2009 Deambra 1

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CIA: Many Carleton

2009 Deamber 3

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(Harmia II. Jone Prom B. Hosley Asst. Clerk

This sentence to be served concurrently with the sentence imposed this day in #
\$2008 - 1271 - 005

Some turns and conditions.

Defendant notified in open court of his right to appeal to the Supreme Judicial Court Appeals Court.

2009 December 3

cla: Many Conteter

By the Court Hamelin &

RA-38

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT MIDDLESEX DIVISION - WOBURN MICR-2008-1271

COMMONWEALTH

v.

MICHAEL BOYD

NOTICE OF APPEAL

The defendant, MICHAEL BOYD, hereby gives notice, pursuant to Rule 3 of the Massachusetts Rules of Appellate Procedure, of his intention to appeal certain opinions, rulings, directions decisions and judgments of the Court in the above-entitled matter.

Respectfully Submitted MICHAEL BOYD By His Attorney,

Date: July 11, 2014

Henry Fasoldt, BBO #667422 Attorney at Law 185 Devonshire Street, Suite 302 Boston, MA 02110 (617) 338-0009 henry@bostondefenselaw.com

CERTIFICATE: I hereby certify that a copy of the foregoing was delivered by hand to the District Attorney's Office, Middlesex County, Woburn, MA via first-class mail.

Date:

Signature: